IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revision No. 884 of 2000

Date of decision : October 31, 2007

Paramjit Singh

... Petitioner

versus

State of Haryana

... Respondent

Coram: Hon'ble Mr. Justice A.N. Jindal

Present: Mr. Brijeshwar Singh Kanwar, Advocate Amicus Curiae for the petitioner.
Mr. K.S. Godara, DAG, Haryana.

A.N. Jindal, J.

This revision petition is directed against the judgment dated 25.7.2000 passed by learned Additional Sessions Judge, Narnaul, dismissing the appeal of the petitioner against the judgment dated 13.2.1996 passed by the Additional Chief Judicial Magistrate, Narnaul, convicting the accused-petitioner Paramjit Singh (hereinafter referred to as 'the petitioner') under Sections 279/304-A IPC and sentencing him to undergo rigorous imprisonment for three months under Section 279 IPC and rigorous imprisonment for two years and fine of Rs.2000/- under Section 304-A IPC.

Shorn of details, the facts as essential for disposal of the revision petition are that on 3.9.1991, Shiv Lal complainant (PW4) (hereinafter referred to as 'the complainant') along with Shyam Lal (PW5) was on his way back from his fields. Saroj daughter of Raja Ram was going ahead of them. At around 12.00 noon, when they reached near the road leading to village Nangal Chaudhary, Saroj was just putting her foot on the metalled portion of the road, then the petitioner while driving the truck

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No.HPB-992 at a reckless speed and in a negligent manner came from the side of Nangal Chaudhary and hit Saroj. On raising hue and cry, the petitioner turned his truck back and fled away. As a result of the accident, right leg of Saroj was totally crushed under the wheel of the truck. Consequently, she was shifted to Civil Hospital, Narnaul, from where she was referred to Medical College & Hospital, Rohtak. However, in view of the deteriorated condition of Saroj, she was taken to Jaipur, however, she died on her way to Jaipur.

On the basis of the statement made by Shiv Lal Ex.PW2/A, FIR Ex.PA was recorded. Consequently, investigation commenced. The petitioner was arrested; rough site plan of the place of occurrence was prepared; completion of investigation was followed by a report under Section 173 Cr.P.C.

To prove its case, the prosecution examined HC Mahender Singh (PW1), HC Man Singh (PW2), Dr. K.K. Yadav (PW3), Shiv Lal (PW4), Shyam Lal (PW5), Raja Ram (PW6) and Kailash (PW7).

When examined under Section 313 Cr.P.C. the petitioner denied all the incriminating circumstances appearing against him and pleaded his false implication in the case. However, no defence was led.

The trial ended in conviction. The appeal was also dismissed. Hence this revision petition.

Arguments heard. Records perused.

The main stake of the learned counsel for the petitioner is that it is a case of doubtful identity as the petitioner was not known to the witnesses earlier, therefore, the police was obliged to hold test identification

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parade.

Having given my thoughtful consideration to the aforesaid argument, the same does not weigh me. Both the witnesses having been present at the spot had seen the petitioner driving the truck. It is for this reason, the name of the petitioner was recorded in the FIR. The petitioner himself had disclosed his name, therefore, in view of the judgment imparted in case ***Ranbir Singh vs. State of Haryana, 2000 (3) RCR (Crl.) 158***, test identification parade was not required when the witnesses had identified the petitioner at the spot. There was no necessity to hold test identification parade, even if the witness did not know him earlier.

That apart, FIR Ex.PA was got recorded promptly. Testimony of Dr. K.K. Yadav (PW3) endorses the fact that the injuries suffered by the petitioner were the result of motor vehicle accident. Both the witnesses Shiv Lal (PW4) and Shyam Lal (PW5) have given minute details of the occurrence and they have withstood the test of cross examination.

Criminal rashness is hazardous; a dangerous or wanton act with the knowledge that if it is so, and that it may cause injury, but without intention to cause injury or knowledge that it will probably be caused. The criminality lies in running the risk of doing such an act with recklessness or indifference as to the consequences. Criminal negligence is the gross and culpable neglect or failure to exercise that reasonable and proper care which was expected from a prudent man acting in the ordinary course of business. The criminality arises out of his gross negligent of his duty and rashness which could drive any result.

Notwithstanding the fact that the petitioner remained silent

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over the commission of the crime and his silence cannot be equated with his guilt and the prosecution has to stand on his own legs to prove the culpability of the accused. The prosecution in this case has achieved the goal by examining ample evidence on the record. The witnesses so examined had no animus to implicate him falsely.

Having examined the concurrent findings returned by both the courts below, this court does not deem it appropriate to delve deep into the facts and appreciate the evidence again. But, on scrutiny of the impugned judgment, it reaches the conclusion that no such defect or irregularity in the procedure has been detected or pointed out so as to warrant interference at my end.

The truck drivers while plying the truck on the roads least bother about the passers-bye. They ply their vehicles in ut-disregard of the traffic rules and finish the life of the passers-bye in the twinkling of an eye, therefore, no leniency in the quantum of sentence, in the given circumstances of the case, could be extended to him. It may further be added that the life of the young lady has been taken by the petitioner for the carelessness on his part. As such, leniency if taken would be travesty of justice.

Consequently, finding no merit in the petition the same is hereby dismissed.

Mr. Brijeshwar Singh Kanwar, Advocate Amicus Curiae may claim his remuneration as per law.

October 31, 2007 **(A.N. Jindal)**
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